

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	CR. 09-50100
	)	
Plaintiff,	)	
	)	
vs.	)	REPORT AND
	)	RECOMMENDATION THAT
LOUIS JANIS,	)	DEFENDANT'S MOTION TO
	)	SUPPRESS STATEMENTS BE
	)	DENIED
Defendant.	)	[DOCKET 24]

Defendant Louis Janis moved the court to suppress any statements he made to the government. See Docket 24. This motion is referred to this magistrate judge for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B) and the standing order dated June 11, 2007.

Mr. Janis concedes in his motion that “[i]t would appear that Mr. Janis has not made any statements to law enforcement.” See Docket 25, at page 2. The government’s response in opposition to Mr. Janis’s motion confirms that Mr. Janis made no statements to federal or tribal investigators. See Docket 26 at page 2. The government acknowledges its obligation to provide the defendant with discovery of all of his own statements and asserts that the government has complied with its discovery obligations to Mr. Janis in this case. The government request that the evidentiary hearing currently scheduled on Mr. Janis’ motion be removed from the calendar and that the court deny Mr. Janis’ motion as moot.

Good cause appearing, it is hereby respectfully

RECOMMENDED that defendant's motion to suppress [Docket 24] be denied as moot for the reason that the motion seeks to suppress statements made by the defendant and there are no such statements. In the event statements of the defendant are discovered subsequent to the date of this report, the court recommends that the order denying Mr. Janis' motion be without prejudice to his right to file a motion to suppress as to any late-disclosed statements without regard to the deadlines in the standing order.

**NOTICE OF RIGHT TO APPEAL**

The parties have fourteen (14) days after service of this report and recommendation to file written objections pursuant to 28 U.S.C. § 636(b)(1)(B), unless an extension of time for good cause is obtained. See Fed. R. Crim. P. 59(b); 28 U.S.C. § 636(b)(1)(B). Failure to file timely objections will result in the waiver of the right to appeal questions of fact. Id. Objections must be timely and specific in order to require *de novo* review by the district court. See Thompson v. Nix, 897 F.2d 356 (8<sup>th</sup> Cir. 1990); Nash v. Black, 781 F.2d 665 (8<sup>th</sup> Cir. 1986).

Dated January 13, 2010.

BY THE COURT:

/s/ *Veronica L. Duffy*

VERONICA L. DUFFY  
UNITED STATES MAGISTRATE JUDGE